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5	Attorneys for Plaintiff	
6		
7	UNITED STATES	DISTRICT COURT
8	DISTRICT O	OF ARIZONA
9		
	Edgar Herrera,	No.
10	Plaintiff,	
11	VS.	COMPLAINT
12		
13	Binlyfe Enterprises, LLC, an Arizona limited liability company, Bin Mania,	
14	LLC , a Wyoming limited liability	
	company, Andria Parra and John Doe Parra, a married couple, and Sonia Parra	
15	and John Doe Parra II, a married couple,	
16	Defendants.	
17		
18		
19	Plaintiff, Edgar Herrera ("Plaintiff" or	r "Herrera"), sues the Defendants Binlyfe
20	Enterprises, LLC, Bin Mania, LLC, Andria P	Parra and John Doe Parra, and Sonia Parra
		0.11
21	and John Doe Parra II, ("Defendants") and al	lleges as follows:
22	<u>PRELIMINARY</u>	<u>Y STATEMENT</u>
23	1 This is an action for your id mir	nimum vyogog vangid oventimo vyogog
24	1. This is an action for unpaid min	nimum wages, unpaid overtime wages,
25	liquidated damages, attorneys' fees, costs, an	nd interest under the Fair Labor Standards
26	Act ("FLSA"), 29 U.S.C. § 201, et seq.; unpa	aid minimum wage under the Arizona
2.7		-

- Minimum Wage Act ("AMWA"), Arizona Revised Statutes ("A.R.S.") Title 23, Chapter 1 2 2, Article 8; and unpaid wages under the Arizona Wage Act ("AWA"), A.R.S. Title 23, 3 Chapter 2, Article 7. 4 2. The FLSA was enacted "to protect all covered workers from substandard 5 wages and oppressive working hours." <u>Barrentine v. Ark Best Freight Sys. Inc.</u>, 450 U.S. 728, 739 (1981). Under the FLSA, employers must pay all non-exempt employees a 7 8 minimum wage of pay for all time spent working during their regular 40-hour workweeks. See 29 U.S.C. § 206(a). Under the FLSA, employers must pay all non-10 exempt employees one and one-half their regular rate of pay for all hours worked in 11 excess of 40 hours in a workweek. See 29 U.S.C § 207. 12 13 3. The AMWA, A.R.S § 23-363, et seq., establishes a minimum wage within 14 the State of Arizona. 15 4. The AWA, A.R.S. § 23-350, et seq., establishes standards for wage 16 payments to employees within the State of Arizona. 17 18 JURISDICTION AND VENUE 19 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 20 21
 - 29 U.S.C. § 201, *et seq.* because this civil action arises under the Constitution and law of the United States. This Court also has subject matter jurisdiction pursuant 28 U.S.C. § 1367 because the state law claims asserted herein are so related to claims in this action over which this Court has subject matter jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

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6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(ii) because 1 2 acts giving rise to the claims of Plaintiff occurred within the District of Arizona, and 3 Defendants regularly conduct business in and have engaged in the wrongful conduct 4 alleged herein – and, thus, are subject to personal jurisdiction in – this judicial district. 5 **PARTIES** 6 7. At all times material to the matters alleged in this Complaint, Plaintiff was 7 an individual residing in Maricopa County, Arizona, and is a former employee of Defendants. 10 8. At all material times, Binlyfe Enterprises, LLC was a corporation duly 11 licensed to transact business in the State of Arizona. At all material times, Defendant 12 13 Binlyfe Enterprises, LLC does business, has offices, and/or maintains agents for the 14 transaction of its customary business in Maricopa County, Arizona. 15 9. At all relevant times, Defendant Binlyfe Enterprises, LLC owned and 16 operated as "Binlyfe," a retail store located at 742 W. Indian School Rd, Phoenix, 17 18 Arizona 85013. 19 10. Under the FLSA, Defendant Binlyfe Enterprises, LLC is an employer. The 20 FLSA defines "employer" as any person who acts directly or indirectly in the interest of 21 an employer in relation to an employee. At all relevant times, Defendant Binlyfe 2.2. 23 Enterprises, LLC had the authority to hire and fire employees, supervised and controlled 24 work schedules or the conditions of employment, determined the rate and method of 25 payment, and maintained employment records in connection with Plaintiff's employment 26 with Defendants. As a person who acted in the interest of Defendant Binlyfe Enterprises, 27

LLC in relation to the company's employees, Defendant Binlyfe Enterprises, LLC is subject to liability under the FLSA.

- 11. At all material times, Bin Mania, LLC was a corporation duly licensed to transact business in the State of Arizona. At all material times, Defendant Bin Mania, LLC does business, has offices, and/or maintains agents for the transaction of its customary business in Maricopa County, Arizona.
- 12. Under the FLSA, Defendant Bin Mania, LLC is an employer. The FLSA defines "employer" as any person who acts directly or indirectly in the interest of an employer in relation to an employee. At all relevant times, Defendant Bin Mania, LLC had the authority to hire and fire employees, supervised and controlled work schedules or the conditions of employment, determined the rate and method of payment, and maintained employment records in connection with Plaintiff's employment with Defendants. As a person who acted in the interest of Defendant Bin Mania, LLC in relation to the company's employees, Defendant Bin Mania, LLC is subject to liability under the FLSA.
- 13. Defendants Andria Parra and John Doe Parra are, upon information and belief, husband and wife. They have caused events to take place giving rise to the claims in this Complaint as to which their marital community is fully liable. Andria Parra and John Doe Paarra are owners of Defendant Binlyfe Enterprises, LLC and Bin Mania, LLC and were at all relevant times Plaintiff's employers as defined by the FLSA, 29 U.S.C. § 203(d).

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1	14. Under the FLSA, Defendants Andria Parra and John Doe Parra are
2	employers. The FLSA defines "employer" as any person who acts directly or indirectly
3	in the interest of an employer in relation to an employee. At all relevant times,
4 5	Defendants Andria Parra and John Doe Parra had the authority to hire and fire
6	employees, supervised and controlled work schedules or the conditions of employment,
7	determined the rate and method of payment, and maintained employment records in
8	connection with Plaintiff's employment with Defendants. As persons who acted in the
9	interest of Defendant Binlyfe Enterprises, LLC and Defendant Bin Mania, LLC in
10	relation to the company's employees, Defendants Andria Parra and John Doe Parra are
11	subject to individual liability under the FLSA.
12	
13	15. Defendants Sonia Parra and John Doe Parra II are, upon information and
14	belief, husband and wife. They have caused events to take place giving rise to the claims
1516	in this Complaint as to which their marital community is fully liable. Sonia Parra and
17	John Doe Parra II are owners of Defendant Binlyfe Enterprises, LLC and Defendant Bin
18	Mania, LLC and were at all relevant times Plaintiff's employers as defined by the FLSA,
19	29 U.S.C. § 203(d).
20	
21	16. Under the FLSA, Defendants Sonia Parra and John Doe Parra II are
22	employers. The FLSA defines "employer" as any person who acts directly or indirectly
23	in the interest of an employer in relation to an employee. At all relevant times,
24	Defendants Sonia Parra and John Doe Parra had the authority to hire and fire employees,
25	supervised and controlled work schedules or the conditions of employment, determined
26	
27	the rate and method of payment, and maintained employment records in connection with

- Plaintiff's employment with Defendants. As persons who acted in the interest of
- 2 Defendant Binlyfe Enterprises, LLC and Defendant Bin Mania, LLC in relation to the
- company's employees, Defendants Sonia Parra and John Doe Parra II are subject to
- 4 individual liability under the FLSA.
- Plaintiff is further informed, believes, and therefore alleges that each of the
- 7 Defendants herein gave consent to, ratified, and authorized the acts of all other
- 8 Defendants, as alleged herein.
- 18. Defendants, and each of them, are sued in both their individual and corporate capacities.
- 19. Defendants are jointly and severally liable for the injuries and damages
- sustained by Plaintiff.
- 14 20. At all relevant times, Plaintiff was an "employee" of Defendants as defined
- by the FLSA, 29 U.S.C. § 201, et seq.
- 17 21. The provisions set forth in the FLSA, 29 U.S.C. § 201, et seq., apply to
- 18 Defendants.

- 22. At all relevant times, Defendants were and continue to be "employers" as
- defined by the FLSA, 29 U.S.C. § 201, et seq.
- 22 23. The provisions set forth in the A.R.S. Title 23, Articles 7 and 8 apply to
- 23 Defendants.
- 24. At all relevant times, Plaintiff was an "employee" of Defendants as defined
- 26 by A.R.S. § 23-362.

1	25.	At all relevant times, Defendants were and continue to be "employers" of
2	Plaintiff as d	lefined by A.R.S. § 23-362.
3	26.	Defendants individually and/or through an enterprise or agent, directed and
4 5	exercised co	ntrol over Plaintiff's work and wages at all relevant times.
6	27.	Plaintiff, in his work for Defendants, was employed by an enterprise
7	engaged in c	commerce that had annual gross sales of at least \$500,000.
8	28.	At all relevant times, Plaintiff, in his work for Defendants, was engaged in
9	commerce or the production of goods for commerce.	
1011	29.	At all relevant times, Plaintiff, in his work for Defendants, was engaged in
12	interstate co	mmerce.
13	30.	Plaintiff, in his work for Defendant, regularly handled goods produced or
14		in interstate commerce.
15	transported i	
16		FACTUAL ALLEGATIONS
17	31.	Defendants own and/or operate as Binlyfe, an enterprise located in
18	Maricopa Co	ounty, Arizona.
19	32.	Defendant Binlyfe Enterprises, LLC is a retail store located in Phoenix,
20	Arizona.	
2122	33.	Plaintiff was hired by Defendants in approximately August 2020.
23	34.	At all relevant times, Plaintiff worked for Defendants until approximately
24	November 2	
25	1 to venioer 2	
26	35.	At all relevant times, in his work for Defendants, Plaintiff worked as a
27	warehouse v	vorker and was in charge of the Facebook live sales.

1	36.	Defendants, in their sole discretion, paid Plaintiff an hourly rate of \$15.50,
2	regardless of	f the number of hours he worked in a given workweek.
3	37.	Plaintiff, in his work for Defendants, was generally scheduled to, and did,
4 5	work approx	imately 50-60 hours per week.
6	38.	Defendants did not compensate Plaintiff one and one-half times his regular
7	rate of pay for	or all hours worked in excess of 40 hours in a workweek.
8	39.	Defendants did not compensate Plaintiff one and one-half times his regular
9	rate of pay for	or all hours worked in excess of 40 hours in a workweek based solely on the
10 11	fact that Def	endants paid Plaintiff a salary.
12	40.	Defendants classified Plaintiff as W-2 employee.
13	41.	In his work for Defendants, Plaintiff was not compensated on a salary basis
14	42.	In his work for Defendants, Plaintiff did not have supervisory authority
15	over any em	
16		
17	43.	In his work for Defendants, Plaintiff did not possess the authority to hire or
18	fire employees.	
19	44.	In his work for Defendants, Plaintiff did not possess authority to make
20 21	critical job d	ecisions with respect to any of Defendants' employees.
22	45.	In his work for Defendants, Plaintiff did not direct the work of two or more
23	employees.	
24		In this words for Defendance District for the second of the section and
25	46.	In his work for Defendants, Plaintiff did not exercise discretion and
26	independent	judgment with respect to matters of significance.

1	47.	Plaintiff's primary duty was not the management of the enterprise in which
2	he was empl	oyed or any recognized department of the enterprise.
3	48.	From the beginning of Plaintiff's employment through the present day,
4 5	Defendants	failed to properly compensate him for any of his overtime hours.
6	49.	At all relevant times, Defendants controlled Plaintiff's schedules.
7	50.	At all relevant times, Plaintiff was economically dependent on Defendants.
8	51.	At all relevant times, Defendants did not pay Plaintiff one and one-half
9	times his reg	gular rates of pay for time spent working in excess of 40 hours in a given
11	workweek.	
12	52.	During the time that Plaintiff worked for Defendants, Plaintiff regularly
13	worked in ex	xcess of 40 hours in a given workweek without receiving any overtime
14	premium whatsoever, in violation of the FLSA, 29 U.S.C. § 207(a).	
1516	53.	For the final pay period that Plaintiff worked for Defendants, Defendants
17	paid Plaintif	f no wages whatsoever.
18	54.	As a result of not having paid any wage whatsoever to Plaintiff during his
19 20	final pay per	riod with Defendants, Defendants failed to pay the applicable minimum wage
21	to Plaintiff.	
22	55.	As a result of Defendants' willful failure to compensate Plaintiff any wage
23	whatsoever	for such hours worked, Defendants violated 29 U.S.C. § 206(a).
24	56.	As a result of Defendants' willful failure to compensate Plaintiff any wage
2526	whatsoever	for such hours worked, Defendants violated 29 U.S.C. § 207(a).

1	57.	As a result of Defendants' willful failure to compensate Plaintiff any wage
2	whatsoever	for such hours worked, Defendants violated the AMWA, A.R.S. § 23-363.
3	58.	As a result of Defendants' willful failure to compensate Plaintiff any wage
4	whatsoever	for such hours worked, Defendants violated the AWA, A.R.S., § 23-351.
5	59.	Plaintiff was a non-exempt employee.
7	60.	At all relevant times, Defendants failed to properly compensate Plaintiff for
8	any of his o	vertime hours.
9	<i>C</i> 1	
10	61.	At all relevant times, Defendants also failed to properly compensate
11	Plaintiff at t	he applicable minimum wage for many of his hours worked for Defendants.
12	62.	Defendants knew that – or acted with reckless disregard as to whether –
13	their refusal	or failure to properly compensate Plaintiff during the course of his
14	employment	t would violate federal and state law, and Defendants were aware of the
15	FLSA minir	num wage and overtime requirements during Plaintiff's employment. As
1617	such, Defen	dants' conduct constitutes a willful violation of the FLSA and the AMWA.
18	63.	Defendants refused and/or failed to properly disclose to or apprise Plaintiff
19	011	
20	of his rights	under the FLSA.
21	64.	Plaintiff is a covered employee within the meaning of the FLSA.
22	65.	Defendants refused and/or failed to properly disclose to or apprise Plaintiff
23	of his rights	under the FLSA.
24	66.	Defendants individually and/or through an enterprise or agent, directed and
25	avaraigad as	entral over Plaintiff's work and wages et all relevant times
26	exercised co	ontrol over Plaintiff's work and wages at all relevant times.

1	67.	Due to Defendants' illegal wage practices, Plaintiff is entitled to recover
2	from Defen	dants compensation for unpaid minimum and overtime wages, an additional
3	amount equ	al amount as liquidated damages, interest, and reasonable attorney's fees and
4 5	costs of this	action under 29 U.S.C. § 216(b).
6	68.	Due to Defendants' illegal wage practices, Plaintiff is entitled to recover
7	from Defen	dants compensation for unpaid wages, an additional amount equal to twice the
8	unpaid mini	mum wages as liquidated damages, interest, and reasonable attorney's fees
9	and costs of	this action under A.R.S § 23-363.
10	69.	Due to Defendants' illegal wage practices, Plaintiff is entitled to recover
1112	from Defen	dants compensation for his unpaid wages at an hourly rate, to be proven at
13		
14	trial, in an amount that is treble the amount of his unpaid wages, plus interest thereon,	
15	and his costs incurred under A.R.S. § 23-355.	
16		COUNT ONE: FAIR LABOR STANDARDS ACT
17		FAILURE TO PAY OVERTIME
18	70.	Plaintiff realleges and incorporates by reference all allegations in all
19	preceding p	aragraphs.
20	71.	Plaintiff was a non-exempt employee entitled to statutorily mandated
21	overtime wa	ages.
22	72.	In a given workweek, Defendants failed to pay one and one-half times the
23	applicable r	egular rate of pay for all hours worked in excess of 40 hours.
24	application 1	
25	73.	As a result of Defendants' failure to pay Plaintiff one and one-half times his
26	regular rate	for all hours worked in excess of 40 per week in a given workweek,

1	Defendants failed and/or refused to pay Plaintiff the applicable overtime rate for all hours
2	worked for the duration of his employment, in violation of 29 U.S.C. § 207.
3	74. As a result of Defendants' willful failure to compensate Plaintiff the
4 5	applicable overtime rate for all hours worked, Defendants violated the FLSA.
6	75. As such, the full applicable overtime rate is owed for all hours that Plaintiff
7	worked in excess of 40 hours per week.
8	76. Defendants knew that – or acted with reckless disregard as to whether –
9	their failure to pay Plaintiff the proper overtime rate would violate federal and state law,
10	and Defendants were aware of the FLSA minimum wage requirements during Plaintiff's
1112	employment. As such, Defendants' conduct constitutes a willful violation of the FLSA.
13	77. Defendants have and continue to willfully violate the FLSA by not paying
14	
15	Plaintiff a wage equal to one and one-half times the applicable regular rate of pay for all
16	time Plaintiff spent working for Defendants.
17	78. Plaintiff is therefore entitled to compensation one and one-half times his
18	regular rate of pay for all hours worked in excess of 40 per week at an hourly rate, to be
19	proven at trial, plus an additional equal amount as liquidated damages, together with
20	interest, costs, and reasonable attorney fees.
2122	WHEREFORE, Plaintiff, Edgar Herrera, respectfully requests that this Court
23	grant the following relief in Plaintiff's favor, and against Defendants:
24	
25	A. For the Court to declare and find that the Defendants committed one of
26	more of the following acts:

1		i. Violated overtime wage provisions of the FLSA, 29 U.S.C. § 207(a),
2		by failing to pay proper minimum wages;
3	i	i. Willfully violated overtime wage provisions of the FLSA, 29 U.S.C.
4		§ 207(a) by willfully failing to pay proper overtime wages;
5	D	
6	В.	For the Court to award Plaintiff's unpaid overtime wage damages, to be
7		determined at trial;
8	C.	For the Court to award compensatory damages, including liquidated
9		damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
1011	D.	For the Court to award prejudgment and post-judgment interest;
12	E.	For the Court to award Plaintiff reasonable attorneys' fees and costs of the
13		action pursuant to 29 U.S.C. § 216(b) and all other causes of action set
14		
15		forth herein;
16	F.	Such other relief as this Court shall deem just and proper.
17		COUNT TWO: FAIR LABOR STANDARDS ACT
18		FAILURE TO PAY MINIMUM WAGE
19	79.	Plaintiff realleges and incorporates by reference all allegations in all
20	preceding pa	aragraphs.
21	80.	As a result of not paying Plaintiff any wage whatsoever for the final pay
22	neriod of his	employment, Defendant willfully failed or refused to pay Plaintiff the
23	period or ms	employment, Detendant wintury raned of refused to pay I familit the
24	FLSA-mand	ated minimum wage.
25	81.	Defendant's practice of willfully failing or refusing to pay Plaintiff at the
26	required min	nimum wage rate violated the FLSA, 29 U.S.C. § 206(a).
27		

1	82.	Plaintiff is therefore entitled to compensation for the full applicable
2	minimum w	rage at an hourly rate, to be proven at trial, plus an additional equal amount as
3	liquidated d	amages, together with interest, reasonable attorney's fees, and costs.
4	WH	EREFORE, Plaintiff, Edgar Herrera, respectfully requests that this Court
5	orant the fo	llowing relief in Plaintiff's favor, and against Defendants:
6	_	
7	A.	For the Court to declare and find that the Defendants committed one of
8		more of the following acts:
10		i. Violated minimum wage provisions of the FLSA, 29 U.S.C. §
11		206(a), by failing to pay proper minimum wages;
12		ii. Willfully violated minimum wage provisions of the FLSA, 29
13		U.S.C. § 206(a) by willfully failing to pay proper minimum wages;
14	В.	For the Court to award Plaintiff's unpaid minimum wage damages, to be
15		determined at trial;
1617	C.	For the Court to award compensatory damages, including liquidated
18	.	
		damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
1920	D.	For the Court to award prejudgment and post-judgment interest;
21	Е.	For the Court to award Plaintiff reasonable attorneys' fees and costs of the
22		action pursuant to 29 U.S.C. § 216(b) and all other causes of action set
23		forth herein;
24	F.	Such other relief as this Court shall deem just and proper.
25	1.	
26		COUNT THREE: ARIZONA MINIMUM WAGE ACT FAILURE TO PAY MINIMUM WAGE
27		

1	83.	Plaintiff realleges and incorporates by reference all allegations in all
2	preceding pa	aragraphs.
3	84.	As a result of not paying Plaintiff any wage whatsoever for the final pay
4 5	period of his	s employment, Defendant willfully failed or refused to pay Plaintiff the
6	Arizona min	imum wage.
7	85.	Defendant's practice of willfully failing or refusing to pay Plaintiff at the
8	required mir	nimum wage rate violated the AMWA, 23-363.
9	86.	Plaintiff is therefore entitled to compensation for the full applicable
10 11	minimum w	age at an hourly rate, to be proven at trial, plus an additional amount equal to
12	twice the un	derpaid wages as liquidated damages, together with interest, reasonable
13	attorney's fe	es, and costs.
14	•	EREFORE, Plaintiff, Edgar Herrera, respectfully requests that this Court
15		
16	grant the fol	lowing relief in Plaintiff's favor, and against Defendants:
17	A.	For the Court to declare and find that the Defendant committed one of more
18		of the following acts:
19		i. Violated minimum wage provisions of the AMWA, A.R.S. § 23-
20 21		363, by failing to pay proper minimum wages;
22	i	i. Willfully violated minimum wage provisions of the AMWA, A.R.S.
23		§ 23-363 by willfully failing to pay proper minimum wages;
24	D	
25	В.	For the Court to award Plaintiff's unpaid minimum wage damages, to be
26		determined at trial;

1	C.	For the Court to award compensatory damages, including liquidated	
2		damages pursuant to A.R.S. § 23-364, to be determined at trial;	
3	D.	For the Court to award prejudgment and post-judgment interest;	
4	E.	For the Court to award Plaintiff reasonable attorneys' fees and costs of the	
5		action pursuant to A.R.S. § 23-364 and all other causes of action set forth	
7		herein;	
8	F.	Such other relief as this Court shall deem just and proper.	
9			
10		COUNT FOUR: ARIZONA WAGE ACT FAILURE TO PAY WAGES DUE AND OWING	
11	87.	Plaintiff realleges and incorporates by reference all allegations in all	
12	preceding paragraphs.		
13	88.	As a result of the allegations contained herein, Defendants did not	
14			
15	compensate	Plaintiff wages due and owing to him.	
16	89.	Defendants engaged in such conduct in direct violation of A.R.S. § 23-350	
17 18	90.	As such, unpaid wages for such time Plaintiff worked are owed to Plaintiff	
19	for the entire	e time he was employed by Defendants.	
20	91.	Defendants knew that – or acted with reckless disregard as to whether –	
21	their refusal	or failure to properly compensate Plaintiff over the course of his	
22	employment	would violate federal and state law, and Defendants were aware of the	
23			
24	Arizona Wa	ge Act's requirements during Plaintiff's employment. As such, Defendants'	
25	conduct cons	stitutes a willful violation of the Arizona Wage Act.	
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1	92.	Plaintiff is therefore entitled to compensation for his unpaid wages at an
2	hourly rate,	to be proven at trial, in an amount that is treble the amount of his unpaid
3	wages, plus	interest thereon, and his costs incurred.
4	WHE	EREFORE, Plaintiff, Edgar Herrera, requests that this Court grant the
5	following re	lief in Plaintiff's favor, and against Defendants:
6		
7	A.	For the Court to declare and find that the Defendants violated the unpaid
8		wage provisions of A.R.S. § 23-350, et seq., by failing to pay wages due
9		and owing to Plaintiff;
1011	В.	For the Court to award an amount that is treble Plaintiff's unpaid wages
12		pursuant to A.R.S. § 23-355, in amounts to be determined at trial;
13	C.	
14	C.	For the Court to award prejudgment and post-judgment interest on any
15		damages awarded;
16	D.	For the Court to award Plaintiff's reasonable attorneys' fees and costs of
17		the action and all other causes of action set forth in this Complaint; and
18	E.	Such other relief as this Court deems just and proper.
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21		
22		JURY TRIAL DEMAND
23	Plaint	tiff hereby demands a trial by jury on all issues so triable.
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25		
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27		

1	RESPECTFULLY SUBMITTED this 23rd day of November, 2021.	
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3	BENDAU & BENDAU PLLC	
4	By: /s/ Christopher J. Bendau	
5	Clifford P. Bendau, II Christopher J. Bendau	
6	Christopher J. Bendau Attorney for Plaintiff	
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